

REMARKS

The above-identified application has been carefully reviewed in light of the Office Action mailed January 22, 2009, which included a final rejection of certain of the present claims.

Submitted herewith is a Request for Extension of Time, and required fee, extending the period for responding to the Office Action to and including June 22, 2009.

Submitted herewith is a Request for Continued Examination (RCE) and required fee. Applicant requests that this RCE be entered.

Applicant gratefully acknowledges the Examiner's holding that claims 36, 37 and 39-46 are allowed and that claim 48 includes allowable subject matter.

Without conceding the correctness of any of the Examiner's rejections, applicant has amended the present claims to facilitate prosecution of the above-identified application to obtain an early allowance. Applicant expressly reserves the right to seek patent protection for the original claims and for any other claims supported by the above-identified application in one or more related applications.

Specifically, claims 1, 4, 6, 10, 12, 14, 15 and 35 have been cancelled, without prejudice. Claim 47 has been amended to include the subject matter of allowable claim 48. Claim 48 has been cancelled in view of the amendment to claim 47.

New claims 53-59 have been added and are directed to embodiments for which patent protection is sought. New claim 53 is dependent on allowed claim 36. Claim 54 is dependent on claim 47, which now includes the subject matter of allowable

claim 48. Claim 55 is directed to an apparatus useful to perform the method of allowed claim 37, and further includes some subject matter from present claim 47, including the subject matter of allowable claim 48. Claim 56 is dependent upon claim 55 and includes the subject matter of claim 50. Claims 57 and 58 are dependent upon claim 55 and further include the subject matter of claims 51 and 52, respectively. Claim 59 is dependent on claim 55 and includes the subject matter of claim 53.

Each of the amendments and new claims are fully supported by the present specification. For example, see the present specification at page 2, lines 27-31; page 3, lines 7-30; page 4, lines 18-21 and 27-31; and page 5, lines 10-14.

In view of the above, applicant submits that the claim amendments and new claims do not introduce new matter.

In view of the cancellation of claims 1, 6, 10, 12, 14 and 47, applicant submits that the rejection of these claims under 35 U.S.C. 102(b) as being anticipated by Steinwandel et al (U.S. Patent 5,876,486) is moot.

In addition, since claim 4 has been cancelled, applicant submits that the rejection of claim 4 under 35 U.S.C. 103(a) as being unpatentable over Steinwandel et al in view of Jansen et al (U.S. Patent 5,749,941) is moot.

Further, since claim 15 has been cancelled, and claim 52 includes the subject matter of claim 47 (including the subject matter of claim 48 which the Examiner has acknowledged is allowable), applicant submits that the rejections of claim 15 and 52 under 35 U.S.C. 103(a) as being unpatentable over Steinwandel et al in view of Sirkar et al (U.S. Patent 6,635,103) are moot.

Since claim 47 has been amended to include the subject matter of claim 48 and since claims 49-51 are directly or indirectly dependent on claim 47, applicant submits that claims 47 and 49-51 are allowable, for example for substantially the same reasons that claim 48 (the subject matter of which has been included in claim 47) has been held by the Examiner to include allowable subject matter. Therefore, applicant submits that the rejection of claims 47 and 49-51 under 35 U.S.C. 102(b) as being anticipated by Steinwandel et al (U.S. Patent 5,876,486) is moot.

Applicant submits, for the reasons given below, that new claims 53-59 are patentable over the prior art.

Claims 53 and 54 are claims which are dependent upon allowed or allowable claims 36 and 47, respectively. Therefore, for the same reasons that the respective independent claims, that is claims 36 and 47 are allowed or allowable, so too are dependent claims 53 and 54 allowable.

New claim 55 is directed to an apparatus for separating CO₂ from a gas stream containing CO₂ and an anaesthetic gas. The apparatus comprises a gas separation device and means for transporting a gas stream containing CO₂ at a sinusoidally varying flow rate through the gas separation device, the means comprises a bellows ventilator, the device comprising a supported carrier liquid membrane in which the carrier is an organic base present in a concentration of at least 4.5 mol.dm⁻³.

Steinwandel et al discloses a blower for transporting the gas stream and does not disclose, teach or even suggest a bellows ventilator for transporting a gas stream containing CO₂

as recited in claim 55. Further, applicant submits that neither Jansen et al nor Sirkar et al, taken alone or in any combination supplies the deficiencies apparent in the teachings of Steinwandel et al with regard to claim 55 to 59.

The Examiner acknowledges that the prior art does not teach an apparatus for separating CO₂ from a gas stream containing CO₂ and an anaesthetic gas wherein the means is a bellows ventilator for transporting a gas stream containing CO₂ at a sinusoidally varying flow rate through the gas separation device.

In view of the above, applicant submits that claims 55-59 are not anticipated by and are unobvious from and patentable over the prior art under 35 U.S.C. 102 and 103.

Each of the present dependent claims is separately patentable over the prior art. For example, none of the prior art, taken singly or in any combination, disclose, teach or even suggest the present invention including the additional feature or features recited in each of the present dependent claims. Therefore, applicant submits that each of the present claims is separately patentable over the prior art.

In conclusion, the Examiner has held that claims 36, 37 and 39-46 are allowed. Applicant has shown that claims 47, 49-52 and 53-59 are allowable over the prior art. Therefore, applicant submits that the above identified application is in condition for allowance, and respectfully requests the Examiner

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to pass the above-identified application to issuance at an early date. Should any matters remain unresolved, the Examiner is requested to call applicant's attorney at the telephone number given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Frank J. Uxa", written in a cursive style.

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